

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

William D. Moore and Yvonne Moore, )  
  )  
   )  
   plaintiffs, )  
   )  
   )  
   v. )   No. 08 C 596  
   )  
   )  
Washington Mutual Bank, )   Honorable Ruben Castillo  
   )  
   )  
   defendant. )

**WASHINGTON MUTUAL BANK'S  
MOTION TO DISMISS AMENDED COMPLAINT**

Washington Mutual Bank, by its attorney, Glenn E. Heilizer, pursuant to Fed. R. Civ. P. 12(b)(6), respectfully moves to dismiss the amended complaint. In support of this motion, Washington Mutual Bank states as follows:

1. This lawsuit arises from a mortgage loan transaction between plaintiffs and defendant Washington Mutual Bank. Plaintiffs have been in default since 2003, but accuse the Bank of failing to follow certain alleged statutory and regulatory requirements during the Bank's attempts to foreclose.

2. Plaintiffs bring claims under the Real Estate Settlement Procedures Act (Count I) and the Fair Housing Act (Count II).

3. The Real Estate Settlement Procedures Act claim (Count I) should be dismissed because no actionable violation of that statute is alleged.

4. The Fair Housing Act claim (Count II) should be dismissed, because no actionable violation of that statute has been alleged, and alternatively, all allegations

relating to conduct prior to May 16, 2005 should be dismissed as time-barred.

5. Additionally, Count I should be dismissed, and Count II's claim for actual damages should be dismissed, because plaintiffs have not adequately alleged recoverable damages.

6. Washington Mutual Bank incorporates its contemporaneously filed memorandum of law.

Wherefore, Washington Mutual Bank respectfully requests that the amended complaint be dismissed.

WASHINGTON MUTUAL BANK

By: Glenn Heilizer  
One of its attorneys

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